

STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC WORKS

OWNER'S REPRESENTATIVE CONTRACT

This contract is entered into this 18<sup>th</sup> day of August, 2010, by and between the State of Connecticut, hereinafter called the "State," acting herein by its Commissioner of the Department of Public Works (DPW), under the provisions of Sections 4-8 and 4b-1 of the Connecticut General Statutes, as revised, and

**LiRo Program and Construction Management, PE P.C.**  
**One North Main Street**  
**P.O. Box 36**  
**Georgetown, CT 06829**

hereinafter called the "Owner's Representative" or "OR", for certain services herein designated in connection with a project, hereinafter referred to as the "Project," entitled:

**New Academic and Laboratory Building**  
**Southern Connecticut State University**  
**New Haven, Connecticut**

Project Number: **BI-RS-283**  
Contract Number: **BI-RS-283-OR**

WITNESSETH, that the parties hereto, in consideration of the mutual covenants, terms and conditions herein contained, do hereby agree as follows:

**I. GENERAL**

- A. The OR accepts the relationship of trust and confidence established with the State by this contract, and agrees to cooperate with the architect, hereinafter referred to as the Architect, for the Project in furthering the interests of the State. The State shall endeavor to promote harmony and cooperation among the State, the Architect or Engineer who has the prime design contract (A/E), the Construction Manager at Risk, the OR, and other persons or entities employed by the State.
- B. The OR shall act as the State's agent and covenants and agrees to perform all its services in accordance with the standards and practices of its profession. The OR shall not have any conflicts of interest. The OR shall be held to the highest standard of conduct in the performance of its duties, and must conduct itself so as to avoid even the appearance of any impropriety. The OR is prohibited from accepting gratuities of any kind from any persons seeking work associated with this contract.
- C. The OR agrees to furnish certain services as set forth in "Exhibit A" and "Exhibit B", which exhibits are attached hereto and made a part hereof. Said services shall be furnished within such time as determined by the Commissioner of DPW, hereinafter referred to as the Commissioner.
- D. The OR shall consult with the DPW to ascertain the requirements of the project and consult with proper State authorities and inform itself as to specific institutional conditions that might affect contemplated work or the hours or season of its execution. The services may not be limited to five (5) days a week or forty (40) hours a week.

- E. The OR agrees to become familiar with and follow (i) the DPW provisions set forth in the "DEPARTMENT OF PUBLIC WORKS CONSULTANTS PROCEDURE MANUAL," which may be amended and/or supplemented current with the date of this contract, as such provisions may apply to the Construction Manager at Risk delivery method, and (ii) the applicable provisions of the General Conditions of the Contract for Construction Section 00 72 23 for the Project. These guidelines and provisions are incorporated herein by reference and shall be as binding upon the parties to this contract as though fully set forth herein.
- F. The OR shall work under the direction of the DPW Project Manager in consulting with the State Fire Marshal, the State Building Inspector, the Department of Environmental Protection, and other State and Federal agencies having jurisdiction over the Project to ascertain requirements of the Project and to become familiar with said agencies' concerns, requirements, and procedures.
- G. It is not the OR's responsibility to ascertain that the drawings and specifications for the Project are in accordance with applicable laws, statutes, ordinances, building codes, rules, and regulations. However, if the OR recognizes that portions of the drawings and specifications are at variance therewith, the OR shall promptly notify the A/E and State in writing.

H. Indemnification.

The OR, at its expense, shall indemnify and hold harmless the State of Connecticut, its officers, agents, and employees from and against all claims, causes of action, legal proceedings, suits, losses, damages, and expenses initiated, suffered, or claimed to have been suffered by third parties not involved by contract in the project, but only to the extent that they arise out of, or result from, noncompliance with applicable statutes, codes and regulations, or the negligence, errors, or omissions of the OR in the performance of this contract; provided, however, that the OR shall not be liable by reason of indemnification for any loss caused by the fault or negligence of the DPW or others who are not the responsibility of the OR.

**II. PAYMENT OF OWNER'S REPRESENTATIVE FEE**

- A. The State agrees to pay the OR for the services herein described the fee set forth in "Exhibit C", which is attached hereto and made a part hereof. It is understood that no changes or adjustments shall be made in said fee unless the scope of the work performed or to be performed by the OR has substantially changed as determined by the Commissioner.
- B. Said fee shall include, but such inclusions shall not be limited to, all costs-of-living increases, transportation, and communication, whether within or without the State of Connecticut, connected with the discharge of the OR's duties under this contract unless specifically noted by the Commissioner as a reimbursable expense.
- C. No payments shall be made until any services furnished have been properly performed and the materials submitted have been reviewed and approved by the State.
- D. It is understood that the OR's total fee as hereinbefore determined in this article shall be increased by any payments that the State shall be obligated to make pursuant to the provisions of Article III. It is also understood that a reasonable adjustment in said total fee shall be made by the Commissioner in the event of suspension or termination, as provided in Articles VIII and IX.

**III. SPECIAL SERVICES**

- A. At the option of the State, the OR may be required to contract for special services.

**B. SPECIAL CONSULTANTS**

1. Should it be necessary for the OR to engage the services of a licensed land surveyor, geotechnical engineer, test boring firm, or other special consultants for the purposes of this

contract, the State shall reimburse the OR for the cost of such services and in addition shall also pay the OR five percent (5%) of such cost, or such other percentage deemed reasonable by the Commissioner, for overhead and profit.

2. The OR shall define and prepare the scope of additional special services for the State's prior review and approval.
3. The OR shall arrange to have at least three (3) qualified consulting firms submit written proposals for the work directly to the State in sealed envelopes.
4. The State reserves the right to waive any or all of these requirements, as set forth in Section B of Article III.

#### IV. INSURANCE

The OR for the duration of this contract, including any extension of the original contract term, must carry insurance to protect the interests of the State. The OR must obtain statutory workers' compensation and employers' liability insurance, comprehensive automobile liability insurance, and commercial general liability insurance to not less than the minimum limits as required in this article, all at no cost to the State.

##### A. Statutory Workers' Compensation and Employers' Liability:

- |                               |                         |
|-------------------------------|-------------------------|
| 1. Workers' Compensation:     | Statutory limits        |
| 2. Employers' Liability:      | \$500,000 policy limit  |
| a. Bodily injury by accident: | \$100,000 each accident |
| b. Bodily injury by illness:  | \$100,000 each employee |

##### B. Commercial General Liability:

- |                        |   |
|------------------------|---|
| Combined single limit: | \$1,000,000 each occurrence<br>\$2,000,000 annual aggregate |
|------------------------|---|

##### C. Comprehensive Automobile Liability

- |   |                              |
|---|------------------------------|
| (to include owned, non-owned and hired vehicles): | \$1,000,000 each occurrence  |
| Combined single limit:                            | \$1,000,000 annual aggregate |

- D. The OR shall furnish evidence by way of a certificate of insurance that it has obtained a professional services liability insurance policy with \$1,000,000.00 minimum coverage for negligence and errors and omissions. If any claims are paid against its professional services liability insurance policy, the OR agrees to purchase additional insurance in order to maintain the minimum coverage of \$1,000,000.00. The insurance shall remain in effect during the entire duration of this contract, including such additional time period as may be necessary to complete specific projects, as hereinbefore set forth, and for eight years after substantial completion of the project. The policy shall provide that it shall indemnify and save harmless the State and its officers, agents, and employees from all claims, suits, actions, damages, and costs of every name and description resulting from negligence and errors and omissions in the work performed by the OR under the terms of this contract.

Each of the policies for such kinds of insurance mentioned above shall be issued by an insurance company or companies satisfactory to the DPW and shall contain a provision that coverages will not be changed, cancelled, or non-renewed until at least sixty (60) calendar days' prior written notice has

been given to the DPW. Each insurance policy shall state that the insurance company agrees to investigate and defend the insured against all claims for damages to the extent that all alleged damages might be covered by insurance. Such insurance policies shall name the State as an additional insured, except the State shall not be named as an additional insured with respect to the coverage for the statutory workers' compensation, automobile liability, and employers' liability insurance and to the coverage for professional liability insurance. Certificates of insurance showing such coverages as required in this article shall be filed with the DPW prior to the time this contract is executed on behalf of the State.

## **V. CONFIDENTIALITY OF DOCUMENTS**

- A. The OR agrees on behalf of the OR and the OR's principals, employees, agents, heirs, successors and assigns that they shall only utilize drawings, specifications, maps, reports, records or other documents to the extent necessary for the performance of the OR's work and duties under this contract. This limitation on use applies to those items produced by the OR, as well as to those items received by the OR from the Department of Public Works or others in connection with the OR's work and duties under this contract.
- B. The OR further agrees that said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or person except for the sole purpose of the work described in this contract. No other disclosure shall be permitted without the prior written consent of the Department of Public Works.
- C. The OR further agrees that the following provision will be included in its contracts with sub-consultants:

Any and all drawings, specifications, maps, reports, records or other documents associated with the contract work shall only be utilized to the extent necessary for the performance of the work and duties under this contract. Said drawings, specifications, maps, reports, records and other documents may not be released to any other entity or person except for the sole purpose of the work described in this contract. No other disclosure shall be permitted without the prior written consent of the Department of Public Works. When any such drawings, specifications, maps, reports, records or other documents are no longer needed, they shall be destroyed.

## **VI. NONDISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS, NONDISCRIMINATION PROVISIONS REGARDING SEXUAL ORIENTATION, EXECUTIVE ORDERS, SEXUAL HARASSMENT POLICY, SUMMARY OF STATE ETHICS LAWS AND CAMPAIGN FINANCE LAWS**

For the purposes of this article, the word "contractor" is substituted for and has the same meaning and effect as if it read "OR."

- A. Non-discrimination. References in this section to "contract" shall mean this Contract and references to "contractor" shall mean the OR.
  - (a) The following subsections are set forth here as required by section 4a-60 of the Connecticut General Statutes:
    - (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of

the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and section 46a-56.

- (b) If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.
- (c) "Minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in subsection (a) of section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.
- (d) Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.
- (e) The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.
- (f) The contractor shall include the provisions of sections (a) and (b) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation

with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

- (g) The following subsections are set forth here as required by section 4a-60a of the Connecticut General Statutes:

(1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each vendor with which such contractor has a contract or understanding, a notice to be provided by the Commission on Human Rights and Opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56; and (4) the contractor agrees to provide the Commission on Human Rights and Opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56.

- (h) The contractor shall include the provisions of section (g) above in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, vendor or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.
- (i) For the purposes of this entire Non-Discrimination section, "contract" includes any extension or modification of the contract, "contractor" includes any successors or assigns of the contractor, "marital status" means being single, married as recognized by the state of Connecticut, widowed, separated or divorced, and "mental disability" means one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or a record of or regarding a person as having one or more such disorders. For the purposes of this section, "contract" does not include a contract where each contractor is (1) a political subdivision of the state, including, but not limited to, a municipality, (2) a quasi-public agency, as defined in Conn. Gen. Stat. Section 1-120, (3) any other state, including but not limited to any federally recognized Indian tribal governments, as defined in Conn. Gen. Stat. Section 1-267, (4) the federal government, (5) a foreign government, or (6) an agency of a subdivision, agency, state or government described in the immediately preceding enumerated items (1), (2), (3), (4) or (5).

B. Executive Orders. The Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of the Contract as if they had been fully set forth in it. At the Contractor's request, the Client Agency shall provide a copy of these orders to the Contractor. The Contract may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.

1. The contractor agrees to abide by such Executive Orders.
2. The State Contracting Standards Board may review this contract and recommend termination of the contract for a violation of the State Ethics Code (Chapter 10 of the general statutes) or section 4a-100 of the general statutes, or wanton or reckless disregard of any state contracting and procurement process by any person substantially involved in such contract or state contracting agency.
3. This contract may be cancelled, terminated or suspended by DPW or the State Labor Commissioner for violation of or noncompliance with Executive Orders No. Three or Seventeen or any State or federal law concerning nondiscrimination, notwithstanding that the State Labor Commissioner is not party to this contract. The State Labor Commissioner shall have continuing jurisdiction regarding contract performance concerning nondiscrimination and listing all employment openings with the Connecticut State Employment Service until the contract is completed or until the contract is terminated prior to completion.
4. The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that the contractor will not discriminate in its employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.
5. This contract may be cancelled, terminated, or suspended by DPW or the State for violation of or noncompliance with Executive Order Sixteen. In addition, the contractor agrees to include a copy of Executive Order Sixteen, and the requirement to comply with said order, in all contracts with its contractors, subcontractors, consultants, subconsultants and vendors.

C. This contract is subject to the provisions of the Department of Public Works Sexual Harassment Policy ("Policy") and, as such, the contract may be cancelled, terminated, or suspended by the State in the event that the contractor, its employees, contractors, subcontractors, consultants, subconsultants, or vendors engage in behavior prohibited by the provisions of the Policy (a copy of the Policy is attached hereto as Exhibit D). The contractor agrees to include a copy of the Policy, and the requirement to prevent behavior as defined in such Policy, in all contracts with its contractors, subcontractors, consultants, subconsultants, and vendors.

D. The Summary of State Ethics Laws posted on the DPW home page (<http://www.ct.gov/dpw/site/default.asp>), and as may be revised from time to time, is incorporated herein by reference as if fully set forth herein. This Summary may be found by clicking on "Ethics Affidavits & Legal Forms."

**E. CAMPAIGN CONTRIBUTION RESTRICTION PROVISION**

For all State contracts as defined in P.A. 07-1 having a value in a calendar year of \$50,000 or more or a combination or series of such agreements or contracts having a value of \$100,000 or more, the authorized signatory to this Agreement expressly acknowledges receipt of the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice. See Attachment {SEEC Form 11}.

## **VII. LARGE STATE GOVERNMENT CONTRACTS**

If the OR is a large state contractor, the OR shall comply with the provisions of Section 4-61dd of the Connecticut General Statutes, as may be revised.

- A. "Large state contract" and "Large state contractor" shall have the same meanings as set forth in Section 4-61dd(g) of the Connecticut General Statutes, as may be revised.
- B. Each contract between a state or quasi-public agency and a large state contractor shall provide that, if an officer, employee, or appointing authority of a large state contractor takes or threatens to take any personnel action against any employee of the contractor in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of Section 4-61dd of the Connecticut General Statutes, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the state or quasi-public agency may request the Attorney General to bring a civil action in the Superior Court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.
- C. Each large state contractor shall post a notice of the provisions of Section 4-61dd relating to large state contractors in a conspicuous place that is readily available for viewing by the employees of the contractor.

## **VIII. SUSPENSION OF THE WORK**

- A. The State, at any time, may suspend all or any part of the services of the OR. In such event, the OR shall be given three (3) days' notice of such suspension in writing by registered or certified mail to the OR's address as given for correspondence purposes. The mailing of such notice shall preclude any claim on the part of the OR as to failure to receive notice of such suspension.
- B. In the event of suspension by the State as noted above, the OR shall be entitled to such compensation as the Commissioner shall deem reasonable.
- C. Should the State reactivate any assigned work covered by this contract, in whole or in part, within one year from the time the work was suspended, any fees paid to the OR pursuant to this contract shall be applied as payment on the fees for the work as set forth in this contract at the time of reactivation. Should reactivation occur after a period of suspension exceeding one (1) year, the OR and the State may renegotiate the fees for the work based on current conditions or either may unilaterally elect to terminate the remaining work.
- D. In the event the State decides to suspend any work under this contract, the State shall become entitled, after payment of outstanding fees, to all finished and unfinished documents, estimates, and schedules prepared pursuant to this contract.
- E. If the OR should be unwilling or unable to perform the services required by this contract at the time the State desires to reactivate the work after a period of suspension, then all finished or



unfinished documents, estimates, and schedules prepared pursuant to this contract shall become the property of the State and the State shall have the right to immediate possession and use thereof.

#### **IX. TERMINATION OF CONTRACT**

- A. Notwithstanding any provisions or language in this contract to the contrary, the Commissioner may terminate the contract whenever he/she determines in his/her sole discretion that such termination is in the best interest of the State. Any such termination shall be effected by delivery to the OR of a written notice of termination.
- B. The notice of termination shall be sent by registered or certified mail or by hand delivery to the OR's address as furnished to the State for purposes of correspondence. Upon receipt of such notice, the OR shall both immediately discontinue all services affected (unless the notice directs otherwise) and deliver to the State all data, drawings, correspondence, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the OR in performing its duties under this contract, whether completed or in progress. All such documents, information, and materials shall become the property of the State.
- C. If the termination is for the convenience of the State, the OR shall be entitled to receive reasonable compensation for services already satisfactorily performed and accepted, but no amount shall be allowed for anticipated profit on unperformed services. The Commissioner shall determine the amount of such compensation.
- D. If the termination is for reason of failure of the OR to fulfill its contract obligations, the State may take over the work and prosecute the same to completion by contract or otherwise. In such event, the OR shall be liable to the State for any additional costs occasioned to the State thereby.
- E. If after notice of termination for failure of the OR to fulfill its contract obligations it is determined that the OR had not so failed, the termination shall be deemed to have been effected for the convenience of the State. In such event, the OR shall be entitled to reasonable compensation as provided in Section C of this article.
- F. If the OR is a sole proprietor and the OR should become deceased this contract shall be considered terminated. In the event of such termination, the OR's estate shall be entitled to a reasonable payment for any uncompensated work performed to the date of death, and the State shall have title to, and shall have the right to immediate use and possession of, all finished and unfinished documents, estimates, and schedules prepared under this contract. The Commissioner shall determine the amount of such payment.

#### **X. ENTIRE AGREEMENT**

No prior stipulation, agreement, understanding, or proposal, verbal or otherwise, of the parties hereto, their agents, or legal representatives shall be valid or enforceable unless embodied in the provisions of this contract.

#### **XI. ANNUAL CERTIFICATION**

If the aggregate value of this contract is \$50,000.00 or more, including all amendments and/or commission letters, then the OR shall annually submit, on or within two (2) weeks of the anniversary date of the execution of this contract, a completed annual certification to Room 437, 165 Capitol Avenue, Hartford, CT 06106, to the attention of the Contracts Secretary. For the purposes of this article, the execution date of the contract shall be the date the Commissioner of DPW signs the contract.

## **XII. CONNECTICUT LAW**

It is agreed that this contract shall be governed by, construed, and enforced in accordance with the laws of the State of Connecticut.

## **XIII. SOVEREIGN IMMUNITY**

Nothing in this contract shall be construed as a waiver or limitation upon the State's sovereign immunity. To the extent this article is found to be inconsistent with any other part of this contract, this article shall control. This article of the contract shall survive the completion and/or termination of this contract.

## **XIV. APPROVAL OF STATE PROPERTIES REVIEW BOARD**

As provided in Connecticut General Statutes Section 4b-23 (i), it is essential for the OR contracting with the DPW to understand that the approval of the State Properties Review Board must be granted before the OR's contract can begin. By providing service without a properly executed contract, the OR accepts the risk that payment will not be made by the State of Connecticut.

## **XV. APPROVAL OF THE ATTORNEY GENERAL**

This contract shall become effective when it is approved as to form by either the Attorney General of the State of Connecticut, the Deputy Attorney General of the State of Connecticut, or an Associate Attorney General of the State of Connecticut.

## **XVI. STATE'S RIGHTS OF INSPECTION, AUDIT AND COLLECTION; MAINTENANCE OF RECORDS**

- (a) All services performed by and material supplied by the OR under this contract shall be subject to the inspection and approval of the State at all times, and OR shall furnish all information concerning such material and services as may be requested by the State.
- (b) The OR shall maintain, and shall require each of its subcontractors hereunder to maintain, accurate and complete records, books of account and other documents that delineate the nature and extent of the State's, OR's, and, in the case of each subcontract, the applicable subcontractor's, performance hereunder. The OR shall maintain all such documentation and any and all other of its records (whether stored in electronic or other form) that in any way pertain or relate to this contract and/or the actual or alleged performance and/or lack of performance by any party hereunder (individually and collectively, "Records") at the OR's address provided on the first page of this contract or such other location as is approved in writing in advance by the State.
- (c) The OR agrees to make all of its Records available for inspection and/or examination, and copying, by the State's authorized representatives during reasonable hours. The State and its representatives also shall have the right, at reasonable hours, to inspect and examine all of the part(s) of the OR's and its subcontractors' plant(s) and/or place(s) of the businesses which, in any way, are related to, or involved in, the performance of this contract and/or any subcontract to ensure compliance with the same. Except in the case of suspected fraud or other abuse or in the event of an emergency, the State will give the OR at least twenty-four (24) hours notice of any intended inspections or examinations.
- (d) At the State's request, the OR shall provide the State with hard copies of or electronic media containing any data or information in the possession or control of the OR which pertains to the State's business or this contract.
- (e) The OR agrees that it will keep and preserve or cause to be kept and preserved all of its Records until three (3) years after the latter of (i) final payment under this contract, or (ii) the expiration or earlier termination of this contract, as the same may be extended or renewed, and any holdover period.

- (f) The OR also agrees that it will require each subcontractor under this contract to maintain all of its Records until three (3) years after the expiration or earlier termination of said subcontract or other agreement, as the same may be renewed or extended.
- (g) If any litigation, claim or audit is started before the expiration of said three (3) year periods, such records shall be (and shall be required to be) retained until all litigation, claims or audit findings have been resolved.
- (h) The OR shall incorporate the provisions of this article, including this section (h), verbatim into any contract or other agreement it enters into with any subcontractor under this contract.

#### **XVII. NONPERFORMANCE**

If the OR does not fulfill or complete its services in a timely and adequate manner, the State reserves the right to withhold monetary payments to the OR until such time as the work is brought up to date in an adequate manner. The amount withheld shall be reasonably determined by the Commissioner. If the State is harmed by the OR's nonperformance, the State shall be granted fair and equitable compensation by the OR as reasonably determined by the Commissioner.

The State has the right for inspection on demand of the OR's products. The State will accept only those products that meet reasonable professional standards.

#### **XVIII. FORCE MAJEURE**

Neither party shall be liable to the other nor deemed to be in breach of this contract for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to, acts of God, wars, fires, floods, epidemics, guarantee restrictions, strikes, or freight embargoes. Irrespective of the occurrence of any of the foregoing events or circumstances the OR shall take reasonable measures to mitigate any damage caused thereby.

#### **XIX. WAIVERS**

All conditions, covenants, duties, and obligations contained in this contract can be waived only by written agreement. Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any way limit the legal and/or equitable remedies to that party.

#### **XX. SEVERABILITY**

If any of the provisions of this contract are declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of the obligations under any such provisions. The remainder of the contract shall be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the State, acting herein by its Commissioner of the Department of Public Works, and the Owner's Representative have executed this contract.

Attested by:

State of Connecticut

Holly J. Hart  
Witness Holly J. Hart

Diane M. Chace  
Witness Diane M. Chace

By: Raeanne V. Curtis  
Raeanne V. Curtis  
Its Commissioner  
of the Department of Public Works

Date signed: 8-18-10

Attested by:

LiRo Program and Construction Management, PE P.C.

Donald J. Rassler  
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By: Harvey S. Sands  
HARVEY S. SANDS  
Its EXEC. VICE PRESIDENT, duly authorized  
# VICE CHAIRMAN  
Date signed: 8/12/10

Approved as to form: W B AIC  
ASSOC. ATTY. GENERAL Attorney General  
Date signed: 9/2/10

**EXHIBIT A**  
**Owner's Representative**  
**SCOPE OF BASIC SERVICES**

**New Academic and Laboratory Building**  
**Southern Connecticut State University**  
**New Haven, Connecticut**  
**Project No.: BI-RS-283**  
**Contract No.: BI-RS-283-OR**

**PROJECT DESCRIPTION**

This project includes, but is not limited to, the following:

The scope of the project consists of a three (3) story academic laboratory building to accommodate 57,928 assignable square feet of space in a 98,478 gross square foot program and will be constructed on an existing surface parking lot, adjacent to the existing science facilities in Jennings Hall and Morrill Hall. The new facility will house classrooms, teaching laboratories, research laboratories and administrative offices for the departments of Biology, Chemistry, Environmental Sciences, Physics and the Center for Math and Science Education. Wherever possible the equipment and instrumentation will be shared between departments to promote collaboration across disciplines and to maximize use of space and equipment. Adequate storage will also be provided to safely store volatile chemicals.

Site improvements will include the development of a Science Quadrangle, adjacent to the Academic Green, and will be located between Jennings Hall, Morrill Hall and the new Academic Building. The space is intended to be formal with primary pathways to allow for pedestrian circulation. Open lawns will be established and canopy trees will be planted to emphasize the geometry of the space characterized by the Science Quadrangle. This quad space will also be designed to accommodate the proposed shuttle system route.

LEED Certification: The project will be developed with the minimum goal of earning "Silver" level certification by the U.S. Green Building Council using the latest version of the *Leadership in Energy and Environmental Design (LEED) rating system*. The project shall also comply with the High Performance Building Regulations, Regulations of Connecticut State Agencies 16a-38k-1 through 9.

1. **ABBREVIATIONS**

DPW:	State of Connecticut Department of Public Works
DPW PM:	Department of Public Works Project Manager
OR:	Owner's Representative
CCD:	Construction Change Directive
CxA:	Commissioning Agent
A/E:	The Architect or Engineer, who has prime design contract
CMR:	Construction Manager at Risk
CPM	Critical Path Method (schedule)
RFI	Request for Information

LEED: Leadership in Energy and Environmental Design (a US Green Building Council designation)

## 2. GENERAL RESPONSIBILITIES

2.1 The OR's services will include the programming phase, the Schematic Design phase, Design Development phase, Construction Documents phase, and Procurement phase. Each phase will commence when written notice to proceed is issued by the Department of Public Works (DPW). The OR shall not commence any phase work under the contract until the OR receives written authorization to proceed from the DPW Project Manager. The Owner's Representative (OR) is responsible for providing the management, quality control, and administrative tasks needed to perform the services in an expeditious and economical manner consistent with the best interests of the State of Connecticut. The OR shall assist DPW in achieving its goals with respect to the project's schedule, budget, scope, and quality.

2.2 The OR shall provide professional, technical, administrative, and clerical personnel as needed to perform all requested services, including, but not limited to, those described herein.

2.2.1 Staff: The OR shall provide personnel with the qualifications and experience necessary to perform the various tasks herein described. The DPW shall be the sole judge of the qualifications of assigned personnel, and shall have the right to approve and reject personnel, and have removed any personnel it considers unsatisfactory. The OR shall name and provide resumes and prior assignments of its core staff to be assigned to this project for review and approval by DPW. It is anticipated that the OR shall supplement the core staff throughout all phases with other employees, consultants and subcontractors, as necessary, to support the core staff and/or bring special skills and expertise to the project.

2.2.2 Named core staff shall include, but not necessarily be limited to:

Principal-in Charge (Limited)	Name: Michael Burton
Project Professional (On-site Representation)	Name: Stephen Burke
CPM Schedule Expert or Consultant	Name: George Gifford
Cost Estimator	Name: Robert Barsky
LEED Accredited Professional	Name: Murray Levi, AIA LEED AP

Multiple roles may be held by the same individual, if qualified.

Without limiting any provisions above, named core staff assigned to this DPW project must be approved by DPW Project Manager prior to assignment and may not be changed without DPW approval.

## 3. PROJECT MANAGEMENT AND REPORTING (All Project Phases)

3.1 Project Meetings: Coordinate the development of a comprehensive project meeting schedule with the A/E and the DPW PM. Attend project meetings, review and verify meeting minutes, and verify that the minutes are properly recorded in DPW Prolog file.

3.2 Master Project Milestone Schedule: Provide scheduling guidelines to DPW. Prepare, maintain, and monitor a Master Project Milestone Schedule incorporating the major pre-design, design, procurement, construction, closeout, and review and approval activities of the project. Incorporate the CMR's construction schedule into the Master Project Milestone Schedule, when available. Include other activities that may not be part of the A/E or CMR responsibilities, i.e., environmental impact statements, asbestos removal,

easement acquisition, other contractors, etc., but are essential to project completion. Proactively, keep all parties apprised of their schedule requirements and responsibilities. Keep the DPW PM apprised of progress in relation to the Master Project Milestone Schedule on a monthly basis. Provide analysis of schedule slippage, if it occurs, and recommendations for schedule recovery.

- 3.3 Project Budget: Review and comment on appropriateness of initial project budget provided by DPW. Provide a cost estimate of the Architect's Schematic Design submission and participate in the reconciliation of the Architect's and OR's estimates of probable cost. After retention of a CMR, insure that cost estimates prepared by the A/E and CMR are fully reconciled with each other and DPW's budget. Track all costs, both soft and hard, throughout the project with a monthly status report. Advise DPW of any anticipated variances from the budgeted amounts. Record reconciled budget in project Prolog record.
- 3.4 Prolog: DPW projects utilize "Prolog" project management software as their project management and recording system.

#### **Prolog Project Management Requirements**

- 3.4.1 DPW is using Meridian Systems Prolog Manager as the project management software tool for this project.
- 3.4.2 The OR is required to utilize Prolog Manager for the submission of their billings, utilizing the Consultant Payment Application form within Prolog Manager.
- 3.4.3 The OR is required to utilize Prolog Manager for the duration of this project and shall provide project document information via this program. This includes monitoring to ensure the documentation of information described in this Exhibit A, such as daily reports (daily work journal), special inspections, testing, safety notices, requests for information, potential change orders, change orders, submittal tracking, project schedules, progress photos, project meeting minutes, project correspondence, issues (action items), project transmittals, closeout log, etc. The OR shall monitor the use of the Prolog System by the CMR.
- 3.4.4. The OR is required to purchase hosting services for one (1) individual to be utilized on the DPW Prolog Hosted System from Meridian Systems, through PSS Consulting Group and maintain the hosting services for the duration of this project. The cost for the hosting service fees (\$90/month X 30 months = \$2,700) shall be included by the OR in the cost for this contract. This is the only cost for Prolog that will be the responsibility of the OR.
- 3.4.5 The OR shall participate in training with DPW. This training will be conducted at DPW in conjunction with the DPW Project Manager and DPW Prolog Staff. One day of training is to be provided by DPW.
- 3.4.6 The OR shall contact PSS Consulting Group, Inc., the authorized Meridian reseller, for the hosting services and training at <http://www.pssgroup.com> | [david@pssgroup.com](mailto:david@pssgroup.com) or Phone: (978) 440-7060 | Fax: (508) 653-5080.
- 3.4.7 DPW has established a project specific email "file" address for this project. The OR shall send an electronic "file" copy of all project documents to this email address, to include, but not be limited to, all project correspondence, project emails, forms, etc.
- 3.4.8 The OR is required to scan all documents that contain wet (ink) signatures and send a copy of those documents electronically to the DPW Project Manager and the project specific

email "file" address. The hard copy of the wet signature documents shall be transmitted as directed by the DPW Project Manager. This includes, but is not limited to, all contracts, change orders, applications for payment, etc.

#### 4. SCHEDULING SERVICES

4.1 The OR shall provide or subcontract with a Schedule Consultant to review and analyze all construction schedules for the OR. The Schedule Consultant shall have a minimum of 10 years experience in developing, reviewing and analyzing CPM schedules and shall possess demonstrated proficiency in CPM schedule methodology and utilization of the current version of *Primavera Project Planner* software. During construction, Schedule Consultant shall visit the project site at least once every thirty (30) days to evaluate progress on project site and review schedule related issues.

4.2 The CMR will provide to the OR one copy of the current version of *Primavera Project Planner* software for use by the OR's Schedule Consultant on this project. Upon completion of the OR's scheduling services on this project, deliver the software and transfer the license to DPW for its continued use with this Project as may be necessary.

The OR's Schedule Consultant shall have an appropriate schedule analysis software program, such as "Schedule Analyzer for the Enterprise", "Claim Digger", etc., for use in analyzing the CMR's schedules and preparing reports..

4.3 CMR CPM Schedule: The OR shall review all CMR's CPM schedule submittals including, but not limited to, the following:

4.3.1 Preliminary Schedule: Review the schedule to ensure that requirements of the contract have been met by the CMR and prepare a report for submittal to the DPW PM citing all schedule deficiencies/errors.

4.3.2 Baseline Schedule: Review the schedule to ensure that the CMR has met the requirements of the contract. OR's review shall include all logic, appropriateness of work activities, coding, cost and resource loading, and the critical path. The OR shall prepare a report documenting schedule review findings and a recommendation for approval or rejection for submittal to the DPW PM. Assist the DPW PM in preparing a written response to the CMR.

4.3.3 Schedule Updates/Revisions: Provide monthly reviews in a timely manner, meeting DPW contract timelines for review periods. OR shall validate the CMR's actual start and finish dates to ensure the dates are consistent with when the work was performed. Prepare a report for submittal to the DPW PM listing non-compliance items that pertain to the schedule, and include any/all deficiencies of the progress payment request, which is generated from the cost-loaded schedule. OR shall review the CMR's audit report to validate and assess the appropriateness of changes to schedule logic, activities, and durations and provide the DPW PM with an explanation of the impact of the changes on the critical path. If the project schedule updates indicate that milestone dates will not be met, OR shall notify and make recommendations to the DPW PM. Assist the DPW PM to prepare monthly schedule responses to the CMR. The OR is responsible for verifying that the CMR submits all schedule updates timely, with content specified, and in the form and format required by the CMR contract, and providing a report of any deficiencies to DPW.

4.3.4 Recovery Schedules: CMR is required per the CMR contract to provide cost-loaded and man power loaded recovery schedules when work falls behind the baseline schedule. The



OR shall analyze and report on the appropriateness of the CMR's recovery schedule including the indicated man power.

4.3.5 Change Orders: Review each change order for schedule impact and provide written statement.

4.3.6 As-Built Schedule: Verify the actual start and finish dates shown on the final CPM schedule submittal to ensure the as-built schedule accurately shows when work was performed by the CMR and/or trade contractors during execution of the project.

## **5. HIGH PERFORMANCE BUILDING STANDARD REGULATIONS AND LEED CERTIFICATION**

This project shall comply with the High Performance Building Regulations (RCSA 16a-38k-1 through 9), "the Regulations," and obtain Silver Certification under the Leadership in Energy and Environmental Design (LEED) certification program.

The OR shall assist in the coordination of activities associated with meeting these requirements. The scope of these requirements is detailed in the Connecticut Building Standard Guidelines Compliance Manual for High Performance Buildings, ASHRAE Guideline 0-2005 and the DPW Capital Projects High Performance Buildings Guidelines. The OR shall have a LEED Accredited Professional as part of its primary team. The OR's responsibilities associated with these requirements include, but are not limited to, the following:

1. Participate in the Owner's Project Requirements development workshop(s).
2. Coordinate participation by agency facilities operation during commissioning activities in the design, testing, training phases, as appropriate.
3. Review and comment on changes to the Owner's Project Requirements.
4. Monitor LEED points during construction.
5. Review the Commissioning Agent's progress reports.

Commissioning Agent (CxA): The OR shall retain as its sub-consultant a Commissioning Agent. The CxA shall meet the minimum qualifications as established by DPW in Exhibit B, and shall be acceptable to DPW. The CxA will perform the scope of work identified in Exhibit B in conjunction with the project scope detailed in this Exhibit A. The OR shall be compensated for the cost of the Commissioning Agent plus five percent (5%) of such cost for the OR's overhead and profit.

The OR shall provide a written evaluation of the CxA's performance to date utilizing DPW's form and criteria at the completion of the Design Development, Construction Documents and Procurement Phases.

## **6. PRE-CONSTRUCTION SERVICES**

6.1 Analyze the user agency's initial program, budget, site conditions, and schedule, each in relation to each other and provide a brief written response as to their appropriateness.

6.2 With the A/E and other members of the design team, review the existing structures, project site, and available documents on the same. Assist the A/E and other members of the design team with logistics in the review (such as arranging for a roofer for roof cuts, etc.). The cost of investigative services, if any, is included in the Investigative Allowance on Exhibit C of the contract. Provide a brief written statement outlining the OR's review and findings.

6.3 Cost estimating and budget monitoring (see subsection 3.3 above).

- 6.4 During the Schematic Design Phase, review and provide input on design, construction phasing, building means and methods, building systems and materials, in coordination with A/E and CMR. Upon completion of the Schematic Design by the Architect, review the submission to ensure the design satisfies program needs, meets all State of Connecticut technical and building code requirements, and considers all of the elements required to proceed to the Design Development phase. Identify constructability and schedule issues which may affect the timely completion and occupancy of the building. Review proposed construction phasing to minimize impacts to the operation of the university and at the same time facilitates the construction process.
- 6.5 Review and monitor the reconciliation of the A/E and CMR cost estimates at the completion of each design phase (50% Design Development, 100% Design Development, 50% Construction Documents and 100% Construction Documents). Ensure that Architect and CMR cost estimates are reconciled with each other.
- 6.6 Attend and participate in Design Development and Construction Documents review meetings in coordination with the A/E and other design providers.
- 6.7 Review and comment on CMR's proposed construction and phasing schedules. Incorporate phases and major events into Master Project Milestone Schedule.
- 6.8 Assist DPW, in coordination with the A/E, in selecting, retaining, and coordinating the professional services of special consultants and testing laboratories, if any, required for the Project.
- 6.9 Assist DPW, and coordinate with the A/E, with the filing of documents for necessary governmental approvals, insurance approval, LEED certification, etc. Keep track of the process of obtaining necessary approvals and permits, and coordinate the same with DPW.
- 6.10 Coordinate with DPW on the payment of any applicable project fees (e.g., demolition permits, utility costs, easement costs) and record.
- 6.11 For those project meetings that are not the lead responsibility of either the A/E or the CMR, schedule, coordinate, chair, and prepare and distribute minutes.
- 6.12 Review and monitor the CMR's preparation of the CMR's packaging/procurement plan. The CMR's packaging/procurement plan is to be critically reviewed and evaluated, in light of the required construction schedule, milestones and site-specific constraints at the project site.
- 6.13 In the Master Project Milestone Schedule, the OR shall coordinate and integrate its services, the A/E's services, the CMR's services, DPW responsibilities, user agency responsibilities, and any other contractors, consultants, approvals, or other project activities, with the anticipated construction schedules.
- 6.14 At completion of each design phase (programming, Schematic Design, 50% Design Development, 100% Design Development, 50% Construction Documents, and 100% Construction Documents), provide a brief written statement comparing the current reconciled cost estimate with the project budget, the current design with the original program and DPW Design Standards set forth in the Consultants Procedure Manual. Also include in the report that the phasing plan, if applicable, has been reviewed and is appropriate and the identification of any potential problems, if any, with recommendations for proceeding to the next phase. At completion of each phase review the construction duration for appropriateness.

6.15 At the completion of the 100% Construction Documents phase, DPW shall arrange for interdisciplinary coordination review. The OR shall participate in the meeting(s) that identifies the findings, and shall review the coordination items and provide cost estimates of these findings, including, but not limited to, cost savings from avoided or prevented subsequent change orders.

6.16 In accordance with Article III of the contract the OR is hereby authorized to engage the services of Weidlinger Associates Inc., 375 Hudson Street, New York, NY 10014, to perform an independent (3<sup>rd</sup> Party) review of all structural systems of the project. The review shall include the following tasks:

Design Phase

- Review the plans, specifications, and structural computations of the structure or addition to be constructed to determine their compliance with the requirements of the State Building Code to the extent necessary to assure the stability and integrity of the primary structural support systems of such structure or addition;
- Contact the engineer of record to resolve any disagreements in design;
- Submit a written summary to DPW. This summary shall document the items reviewed and state a conclusion as to whether the stability and integrity of the primary structural support systems are in conformance with the requirements of the State Building Code. The summary report shall be affixed with the seal of a professional engineer (structural) licensed in the State of Connecticut.

The 3<sup>rd</sup> Party Structural Reviewer shall submit the following for review and acceptance within the time periods specified below or, at the option of the Department of Public Works, within extended periods to be determined by the Department if the Department is of the opinion that such extensions are warranted and if the Department evidences its consent to said extensions in writing.

- \* First Submittal: Three (3) copies of the first submittal within 30 calendar days after receipt of the contract documents. The first submittal shall consist of a written report noting structural review comments on all plans, specifications, and structural computations.
- \* Second Submittal: Three (3) copies of the second submittal within 30 calendar days after receipt of the tracing and masters. The second submittal shall consist of a written report documenting the items reviewed and stating a conclusion as to whether the stability and integrity of the primary structural support systems are in conformance with the requirements of the State Building Code. The report shall be affixed with the seal of the professional engineer (structural) licensed in the State of Connecticut.

The second submittal shall also consist of a letter addressed to the State Building Inspector, including a summary statement indicating which structural aspects were reviewed and stating that the subject project is in compliance with the State Building Code.

## 7. PROCUREMENT PHASE

- 7.1 Assist in identifying critical and long-lead time materials. Monitor to ensure the CMR coordinates and expedites, as necessary, the ordering and delivery of materials.

- 7.2 Develop a list of required permits and approvals as may be applicable and track this permit approval process.
  - 7.3 Review the CMR's construction schedule and verify that it meets the contract requirements, and incorporate into the Master Project Milestone Schedule.
  - 7.4 Attend trade contractor scope reviews and kick-off meetings.
  - 7.5 Coordinate with and assist DPW in negotiating with and entering into a Guaranteed Maximum price (GMP) construction agreement with the CMR selected by DPW. Assist DPW in negotiating with any other contractors retained by the State. Provide recommendations on the construction agreement, as necessary, to make certain that the schedule of values provided by the CMR facilitates cost-tracking during construction and is coordinated with the specified schedule milestones, and that scope definitions are clearly identified in the Construction Documents.
  - 7.6 Review the CMR's bid format and procedures, and recommend any changes to said format.
  - 7.7 Review and clarify alternate bids, supplemental bids, and unit price requests or materials supplied by others.
  - 7.8 Attend and participate in all pre-bid conferences.
  - 7.9 Attend bid openings and participate in clarifying and answering all questions during bidding.
  - 7.10 Review of all the CMR's bid packages for completeness of work scope.
  - 7.11 Review of subcontractors' bid proposals and qualifications.
  - 7.12 Review supporting documentation from CMR on all bid packages and buy-out plan.
  - 7.13 Review CMR's recommendation for award and purchasing requests.
  - 7.14 Provide recommendations in the development of the GMP.
  - 7.15 Provide a complete review of the CMR's final GMP submission and provide written comments to DPW together with a written recommendation to accept or not accept.
  - 7.16 Participate in any other related meetings and activities as required during the development of the GMP.
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## EXHIBIT B COMMISSIONING AGENT SCOPE OF WORK

The Owner's Representative shall provide systems commissioning services and is hereby authorized to engage the services of Toombs & Associates Engineering Specialists, Inc., 6841 S. Yosemite Street, Suite 102, Englewood, CO 80112, as Commissioning Agent (CxA) in order to perform the duties as outlined below for this project.

This project is being designed to comply with the High Performance Building Regulations (Regulations of Connecticut State Agencies 16a-38k-1 through 9), "the Regulations," and to achieve the Leadership in Energy and Environmental Design (LEED) Silver certification. The CxA is required to provide services during the pre-design phase, the design phase and the procurement phase in support of documenting compliance with the Regulations and in obtaining the LEED Silver certification.

The CxA or its staff designated for this project shall satisfy the following requirements:

1. Has acted as the principal Commissioning Agent for at least three projects of relative size and complexity to this Project over the past three (3) years.
2. Has had recent extensive experience with sustainable design and construction projects, specifically LEED projects.
3. Possesses extensive knowledgeable in building operation and maintenance training.
4. Possesses extensive experience with operation and trouble shooting of Heating/Ventilation/Air Conditioning (HVAC) systems and energy management systems.
5. Is knowledgeable in testing and balancing of various media systems.
6. Has experience with high performance system design and HVAC control strategy optimization.
7. Possesses excellent verbal and written communication skills; is highly organized; and is able to interact effectively with designer professionals, owner and contractor's project management staff as well as technicians and tradesmen.
8. Has extensive experience in writing commissioning specifications.
9. Has staff designated for this project who are licensed by the State of Connecticut as Professional Engineers in mechanical or electrical engineering. Trade and contracting licensure is also desirable.
10. The Commissioning Agent staff shall be certified in building commissioning by the Building Commissioning Association or the Association of Energy Engineers.

The CxA scope of services shall include, but not be limited to, the following summary of tasks. The CxA shall provide all commissioning services for this project in accordance with the requirements of ASHRAE Guideline 0-2005, the DPW Capital Projects High Performance Buildings Guidelines, and the Connecticut Building Standard Guidelines Compliance Manual for High Performance Buildings.

**The Commissioning Process activities completed by the CxA during the Pre-Design Phase include:**

1. Develop and document the Owner's Project Requirements.
2. Develop the scope and budget for the Commissioning Process.
3. Develop the initial Commissioning Plan.
4. Develop an Issues Log and produce an Issues Report.
5. Prepare a Pre-Design Phase Commissioning Report.

**The Commissioning Process activities completed by the CxA during the Design Phase include:**

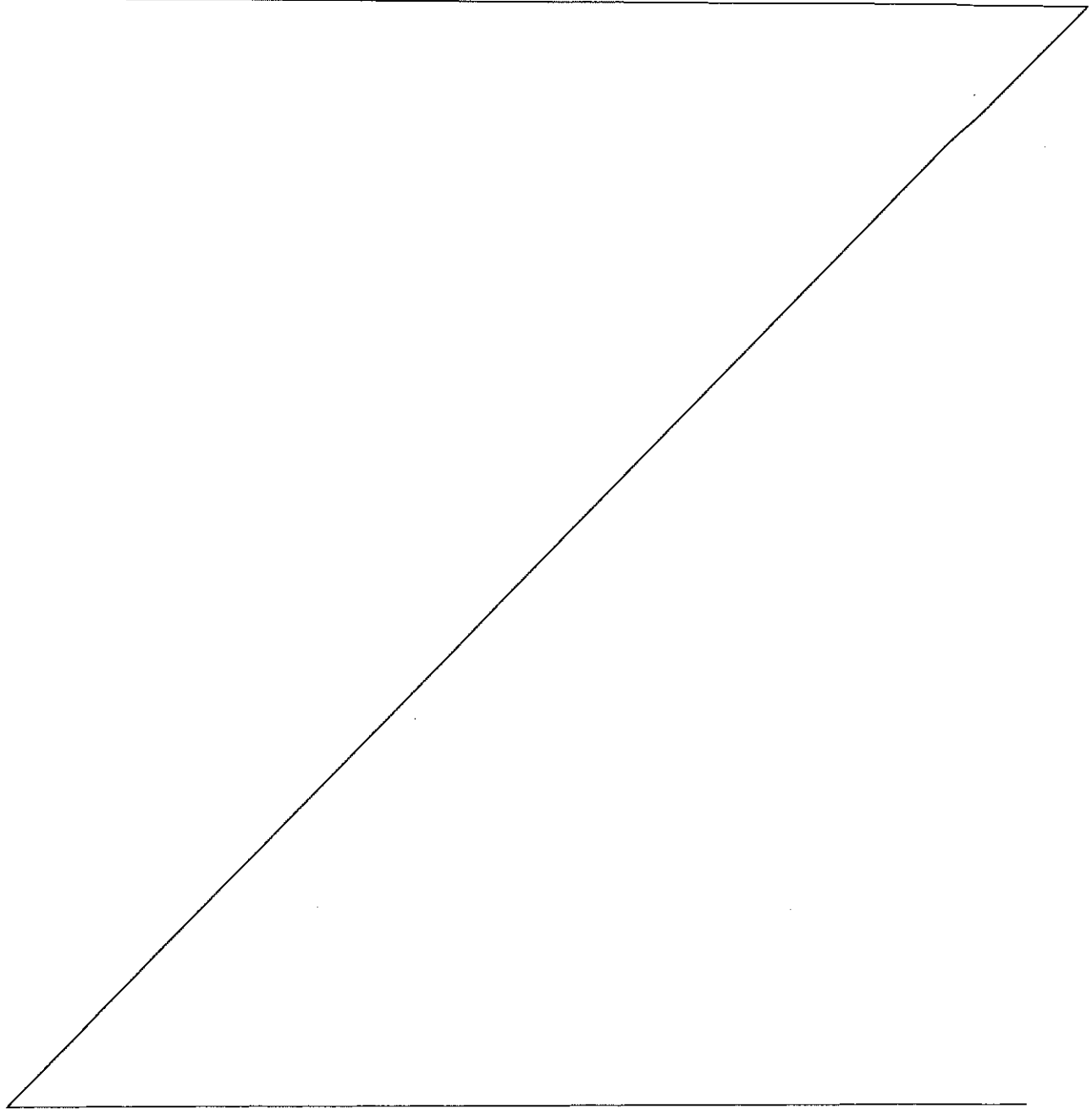
1. Document the Basis of Design in association with the design team.
2. Work with the project team to document adherence to the Owner's Project Requirements during design.
3. Verify the Basis of Design with regard to the Owner's Project Requirements.
4. Develop a Commissioning Plan encompassing the Design, Construction, Occupancy and Post Occupancy Phases. The plan will include, but not be limited to, the following:
  - a. Outline the commissioning responsibilities of the CxA, DPW, client agency, Construction Administrator, design team, general contractor (or construction manager), and subcontractors.
  - b. The plan will identify what systems are to be commissioned.
  - c. The plan will provide an overview of the method of verification and documentation that will be used during the commissioning process.
  - d. The plan will contain preliminary schedules for the commissioning of systems.
5. Determine the commissioning requirements and activities to include in the construction documents and coordinate integration into the construction documents, including writing the general commissioning specifications.
6. Perform design review of design documents at Schematic Design, Design Development, Contract Documents and Tracing and Masters submissions.
7. Update the Issue Log and provide Issue Reports as necessary.
8. Prepare a Design Phase Commissioning Report.

**The Commissioning Process activities accomplished by the CxA during the Procurement Phase include:**

1. Assist the OR with all of the duties required in Section 7 of **EXHIBIT A** with regards to complying with the High Performance Building Standard Regulations and obtaining LEED Silver Certification.

**Systems to be provided with functional testing procedures shall include, but are not limited to, the following systems. It is incumbent on the CxA to provide for all building systems in the project.**

1. All air handling units and associated heating and cooling coils, etc.
2. All humidifiers
3. All exhaust fans
4. All return fans
5. All variable air volume (VAV) terminal units and associated reheat coils
6. All lab terminal units (supply and exhaust) and associated reheat coils
7. Chillers and all associated chilled water and condenser water pumps, etc.
8. Boiler, boiler combustion air fan, and all associated pumps, tanks, condensate pumps, etc.
9. All heat exchangers and associated pressure relief valves (PRVs)
10. Cooling towers
11. Chilled water distribution systems
12. Hot water heating distribution systems
13. Computer room air conditioning units and associated split system condensers

14. All unit heaters, cabinet heaters, etc.
  15. Building automation and Direct Digital Controls and system interlocks
  16. Emergency generator and associated transfer panels
  17. Lighting control systems
  18. Fire protection systems and equipment; fire alarm system interfaces with HVAC systems
  19. Security Systems
  20. Telecommunications Systems
  21. All lab fume hoods and bio-safety cabinets
  22. Lab piping systems and lab gases
  23. Lab vacuum pump
  24. Lab air compressor
  25. Pure water system generator and distribution system
  26. Lab control system(s)
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## EXHIBIT C

New Academic and Laboratory Building  
Southern Connecticut State University  
New Haven, Connecticut  
Project No. BI-RS-283  
Contract No. BI-RS-283-OR

The total fee for the Owner's Representative shall be:

**Four Hundred Forty Two Thousand Two** Dollars **\$442,002.00**

and shall be paid as indicated below for the completion of the work specified when previously authorized in writing:

A. Programming Phase:

**Twenty Nine Thousand** Dollars **\$29,000.00**

B. Schematic Design Phase:

**One Hundred Three Thousand** Dollars **\$103,000.00**

C. Design Development Phase:

**Seventy Thousand** Dollars **\$70,000.00**

D. Construction Documents Phase

**One Hundred Five Thousand** Dollars **\$105,000.00**

E. Procurement (Trade Bids and  
Guaranteed Maximum Price):

**Fifty Thousand** Dollars **\$50,000.00**

F. Special Services

1. Commissioning – Design & Procurement

**Fifty Two Thousand Four Hundred Forty-two** Dollars **\$52,442.00**

and shall be paid as indicated below for the completion of the work specified when previously authorized in writing:

a. Pre-design Phase activities and submission of the Pre-design  
Commissioning Report:

**Four Thousand One Hundred Seventy Nine** Dollars **\$4,179.00**

b. Submission of Owner's Project Requirements document:

**Five Thousand Eight Hundred Thirty Eight** Dollars **\$5,838.00**

c. Design Phase activities and submission of the Design Phase  
Commissioning Report:

**Thirty Seven Thousand Seven Hundred** Dollars **\$37,700.00**



d. Submission of the Commissioning Plan:  
Four Thousand Seven Hundred Twenty Five

Dollars \$4,725.00

2. Third Party Structural Review

Thirty Two Thousand Five Hundred Sixty

Dollars \$32,560.00

and shall be paid as indicated below for the completion of the work specified when previously authorized in writing:

a. 1<sup>st</sup> Submittal

Nineteen Thousand Seven Hundred Nineteen

Dollars \$19,719.00

b. 2<sup>nd</sup> Submittal

Twelve Thousand Eight Hundred Forty One

Dollars \$12,841.00

TOTAL FEE \$442,002.00

The payments under Sections A and B above shall be paid after the related work has been completed and accepted by DPW.

The payments under Sections C and D above shall be paid in two equal installments. Each first payment under Sections C and D above shall be paid after fifty percent (50%) of the related phase work has been completed, as determined by DPW, and DPW has accepted such work. Each final payment under such sections shall be made after the related phase work has been completed and accepted by DPW.

The payment under Section E above shall be paid upon the completion of the Procurement process and acceptance by DPW.

The payments under Section F above shall be paid after the related work has been completed and accepted by DPW.

## Exhibit D

### SEXUAL HARASSMENT POLICY STATEMENT

All personnel of the Department of Public Works have the responsibility for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance and maintenance of public trust. Sexual harassment violates these standards, especially with regards to principles of equal opportunity, and specific acts of such misconduct will result in the severest of disciplinary action that can be taken.

Acts of sexual harassment are illegal and prohibited by the Civil Rights Act, Title VII as amended and Connecticut General Statutes 46a-60 as a discriminatory practice.

As the Commissioner of the Department of Public Works, I will under no circumstances tolerate any incidents of this type of behavior. Specifically, any supervisors, who use implicit or explicit sexual behavior to control, influence, or affect the career, pay or job of an employee is engaging in sexual harassment. Similarly, any employee who makes deliberate or repeated offensive verbal comments, gestures, or physical contact of a sexual nature in the work environment is also engaging in sexual harassment.

Sexual harassment can include verbal abuse such as sexual insults, lewd or suggestive comments, or unwelcome jokes of a sexual nature. Sexually suggestive objects or sexually explicit posters, calendars, photographs, cartoons, drawings or other explicit materials are inappropriate in a state workplace and can contribute to creating a hostile or offensive work environment.

Individuals who are sexually harassed by supervisors, co-workers, or peers should make it clear that such behavior is offensive. Individuals can file a sexual harassment complaint to the appropriate source(s) for investigation of the matter, so that action can be taken to ensure a work environment free of sexual harassment.

Sexual harassment is totally unacceptable conduct; it undermines the integrity of the employment relationship, debilitates morale, and interferes with the work productivity of the organization.

I shall expect every manager and supervisor to ensure that any instance of sexual harassment is dealt with swiftly, fairly, and effectively. All substantiated complaints will result in the strongest disciplinary action available to the Department.

### SEXUAL HARASSMENT NARRATIVE

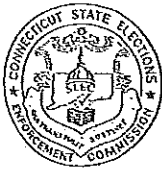
Sexual harassment is a particular type of sex discrimination. Like all sexual discrimination, it is illegal. It violates high standards of honesty, integrity, impartiality and conduct required of all sections of the Department of Public Works. It also interferes with and impedes work productivity.

Sexual harassment is defined as "any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by any individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment."

You may file a complaint with your supervisor, the Human Resources Office at (860) 713-5304 or Johnette Tolliver, the agency's designated Equal Employment Opportunity Specialist at (860) 713-5394.

Signed by Commissioner Raeanne V. Curtis on May 30, 2008.



STATE OF CONNECTICUT  
STATE ELECTIONS ENFORCEMENT COMMISSION  
20 Trinity Street Hartford, Connecticut 06106-1628

SEEC FORM 11

NOTICE TO EXECUTIVE BRANCH STATE CONTRACTORS AND PROSPECTIVE STATE CONTRACTORS OF  
CAMPAIGN CONTRIBUTION AND SOLICITATION BAN

This notice is provided under the authority of Connecticut General Statutes 9-612(g)(2), as amended by P.A. 07-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words are defined below*):

Campaign Contribution and Solicitation Ban.

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to, or *solicit* contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee;

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to, or solicit contributions on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

Duty to Inform

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

Penalties for Violations

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—\$2000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of \$2000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or \$5000 in fines, or both.

Contract Consequences

Contributions made or solicited in violation of the above prohibitions may result, in the case of a state contractor, in the contract being voided.

Contributions made or solicited in violation of the above prohibitions, in the case of a prospective state contractor, shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State will not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information and the entire text of P.A. 07-1 may be found on the website of the State Elections Enforcement Commission, [www.ct.gov/seec](http://www.ct.gov/seec). Click on the link to "State Contractor Contribution Ban."

Definitions:

"State contractor" means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. "State contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Prospective state contractor" means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. "Prospective state contractor" does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

"Principal of a state contractor or prospective state contractor" means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

"State contract" means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. "State contract" does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan or a loan to an individual for other than commercial purposes.

"State contract solicitation" means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

"Managerial or discretionary responsibilities with respect to a state contract" means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

"Dependent child" means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

"Solicit" means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.